

Reviewed Article: Teaching and Learning in Clinic

Integrating Two Measures of Quality Practice into Clinical and Practical Legal Education Assessment: Good client interviewing and effective community legal education

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INTRODUCTION

This paper will examine, through two case studies (an undergraduate clinical program and a Practical Legal Education (PLE) advice clinic) the scope for indicators developed by Curran to assess the outcomes, effectiveness and quality of legal assistance services¹ in Australia to be used in clinical assessment. This article will explore how two particular indicators evaluated as fundamental in that research might be utilised to assess students so as to enhance the quality of their clinical participation.

Clinical Legal Education is seen by its adherents as 'a premier method of learning and teaching. Its intensive, one-on-one or small group nature can allow students to apply legal theory and develop their lawyering skills to solve client legal problems.

Its teaching pedagogy is distinguished by a system of self-critique and supervisory

¹ In the National Partnership Agreement between the Commonwealth and State and territory governments legal assistance services are defined as legal services provided by Legal Aid Commissions, community legal centres, Aboriginal and Torres Strait Islander Legal Services and Family Violence Prevention Services. Australia has what is termed a mixed model of service delivery in terms of legal aid commissions as they have both in-house staff doing legal work and private practitioners with grants of aid.

feedback enabling law students to learn how to learn from their experiences'.² In many senses it is a form of experiential learning through engagement with the practice of law.³ It aims to contextualise the study of law and draw on student learning in other courses to guide and support them in identifying, developing and applying ethical legal practice skills. But its scope is much wider than simply 'skills', it also aims to develop students' critical understanding of approaches to legal practice, to their understanding of the roles of lawyers in relation to individual clients and social justice issues and to encourage and as a means to validate student aspirations to promote access to justice and equality through the law.

We suggest ways to assess the quality of such engagement by clinical students, focusing on Curran's core quality measures of 'a good client interview' and 'quality community legal education'. The value of utilising these two indicators to assess the quality of student engagement is that they themselves are core to the activities in which students are involved in clinic.

BACKGROUND

Involvement in client interviewing in varying degrees and in the provision of community legal education through direct community engagement such as in street

²A Evans, A Cody, A Copeland, J Giddings, M Noone, La Trobe University, S Rice, Australian National University Best Practices in Clinical Legal Education, Australian Government Office for Learning and Teaching, September 2012, 4.

(http://www.cald.asn.au/assets/lists/Resources/Best_Practices_Australian_Clinical_Legal_Education_Sept_2012.pdf) accessed 29/11/13.

³'Clinical Legal Education Guide, Your Guide to Clinical Legal Education Courses Offered by Australian Universities in 2011 and 2013', University of New South Wales.

(http://www.klc.unsw.edu.au/sites/klc.unsw.edu.au/files/doc/eBulletins/CLE_GUIDE_2011_12.pdf) accessed 2/12/13.

law programs is now common in Australia, the United States⁴ and South Africa⁵ and is expanding into many other countries.⁶ It is for this reason that ensuring quality in client interviewing conducted by students and community legal education should be part of student assessment.

In addition in Australia, Practical Legal Education (PLE) courses (like the Graduate Diploma in Legal Practice (GDLP) program in which the authors also teach) prepare graduates of law for admission to practice with a more distinct focus on practice-ready skills. Such programs seek to ensure that entry level lawyers reach required levels of competency as prescribed by the Competency Standards for Entry Level Lawyers⁷ of the Law Admissions Consultative Committee and Australian Professional Legal Education Council.⁸ In other jurisdictions such as the United Kingdom, there is a similar requirement for law graduates seeking admission to complete the Legal Practice Course which lasts one year followed by a two-year apprenticeship, during which the trainee solicitor has to complete a Professional Skills Course.⁹ Scotland takes a similar form of a Diploma in Legal Practice (one year), and completion of a two-year apprenticeship together with the Professional Competence Course in accordance with the Law Society of Scotland's Professional

⁴ For example, the University of Washington, (<http://www.law.washington.edu/Clinics/StreetLaw/>)

⁵ D McQuoid-Mason, 'Street Law as a Clinical Program The South African Experience with Particular Reference to the University of KwaZulu-Natal, 17 Griffith Law Review, 2008, 27.

⁶ P Maisel, 'Expanding and Sustaining CLE in Developing Countries, What we can Learn from South Africa', Vol 30 (2) *Fordham International Law Journal*, 2006, 384.

(<http://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=2044&context=ilj>) accessed 2/12/13.

⁷ Australasian Professional Legal Education Council and Law Admissions Consultative Committee, Competency Standards for Entry Level Lawyers, November 2000 (updated February 2002).

(http://www.aplec.asn.au/Pdf/Competency_Standards_for_Entry_Level_Lawyers.pdf) accessed 2/12/13

⁸ (http://www.aplec.asn.au/aplec/dsp_resources.cfm) accessed 2/12/13.

⁹ (<http://www.lawsociety.org.uk/careers/becoming-a-solicitor/routes-to-qualifying/>) accessed 2/12/13.

Education and Training Stage 1 (PEAT 1).¹⁰ The same model is followed in New Zealand and other Southern Hemisphere countries.¹¹ These competency-based programs all have the distinctive mission to equip trainees with practice-ready skills and knowledge and so are fundamentally different in kind and nature from clinical programs.

In seeking to find measures to gauge the quality of student engagement in such clinical and PLE programs we draw upon recent research by Curran examining what leads to 'effective outcomes' and 'quality legal service' in the context of public legal services (legal aid, community legal centres, family violence services and Aboriginal and Torres Strait Islander services). From 2011 - 2013, Curran conducted research into what constitutes a 'successful outcome'¹² and quality legal aid services and how to measure these on behalf of Legal Aid ACT¹³, the Commonwealth Government's Attorney General's Department¹⁴ and Consumer Action Law Centre with the

¹⁰ (<http://www.lawscot.org.uk/media/561669/peat%201%20guidelines.pdf>) accessed 2/12/13.

¹¹ See Fiji (<http://www.unifiji.ac.fj/undergraduate-study/graduate-diploma-in-legal-practice-2/>) accessed 2/12/13 and New Zealand (<http://www.lawsociety.org.nz/for-lawyers/joining-the-legal-profession/admission>) accessed 2/12/13.

¹² The National Partnership Agreement signed by the Commonwealth Government and each state and territory government for the funding Legal Aid Commissions, and which came into effect on 1 July 2010 talks in terms of 'successful outcomes'.

(<http://www.ag.gov.au/LegalSystem/Legalaidprograms/Documents/National%20Partnership%20Agreement%20on%20Legal%20Assistance%20Services.pdf>) accessed 9 December 2013

¹³ L Curran, 'I Can See Now there's Light at the End of the Tunnel' Legal Aid ACT: Demonstrating and Ensuring Quality Service to Clients, Legal Aid ACT, 2012
(http://www.legalaidact.org.au/pdf/Light_at_the_end_of_the_Tunnel_Legal_Aid_Services_Quality_and_Outcomes.pdf) accessed 9 December 2013

¹⁴ 'A Literature Review: examining the literature on how to measure the 'successful outcomes': quality, effectiveness and efficiency of Legal Assistance Services, Attorney General's Department, 2012.
(<http://www.ag.gov.au/Legalaid/.../Lit%20review%20%20FINAL.DOC>) accessed 9 December 2013

Footscray Community Legal Service.¹⁵ This research has since been the subject of academic discussion (in the United Kingdom,¹⁶ the Netherlands,¹⁷ and Canada¹⁸), practical application (by various services [legal and non-legal] across Australia, by Law Clinics Ontario and Legal Aid Ontario¹⁹) and interest from external agencies (e.g. the World Bank.²⁰). Our surmise is that the robust measures developed in that research might have a place in student assessment in clinical and PLE programs as a way to enhance student learning and build capacity in students to be mindful of quality and impact. We considered how existing assessment and learning outcomes might be adapted to incorporate indicators of quality practice in both the interviewing of clients and in the delivery of community education.

Our two sites were a clinical youth law course and a PLE advice clinic. The clinical site is a course which operates within a Youth Law Centre (YLC) which provides free and confidential advice to young people aged 12-25 and outreach and

¹⁵ L Curran, 'Encouraging Good Practice in Measuring Effectiveness in the Legal Service Sector', May 2013. (<http://www.law.anu.edu.au/legalworkshop-gdhp/publications>) and (<http://consumeraction.org.au/report-encouraging-good-practice-in-measuring-effectiveness-in-the-legal-service-sector/>) accessed 9 December 2013

¹⁶ L Curran, 'The Challenges of Measuring Outcomes – Examining quality, responsiveness and legal professionalism as a way forward', Legal Research Centre's International Research Conference, 2012, Rights and Wrongs: Developments in Access to Justice, Magdalen College, Oxford, United Kingdom, September, 2012. (<http://www.justice.gov.uk/downloads/about/lsrc/conference-booklet-2012.pdf>).

¹⁷ A Crockett and L Curran, Conference Paper International Legal Aid Group Conference, A Practical Model for Measuring Effectiveness., The Hague, June 2013. (http://www.ilagnet.org/jscripts/tiny_mce/plugins/filemanager/files/The_Hague_2013/Session_Papers/Session_3_-_Liz_Curran_and_Andrew_Crockett.pdf).

¹⁸ Access to Justice Metrics: Envisioning Equal Justice, A Discussion Paper, The Canadian Bar Association, April 2013, (http://www.cba.org/CBA/Access/PDF/Access_to_Justice_Metrics.pdf).

¹⁹ See also Law Clinics Ontario. (<http://www.plelearningexchange.ca/promising-practices-and-tools/>) accessed 9 December 2013

²⁰ Email communication to Curran (16 July 2013) with Paul Prettitore of the World Bank requesting details of the research undertaken for Legal Aid ACT.

community legal education to schools, technical colleges and to non-legal youth agencies. While the legal advice is provided directly, much of the community legal education is provided to secondary youth agencies. Research suggests that many vulnerable and disadvantaged people (which is typically legal aid's client demographic) do not contact a lawyer because of perception and access barriers.²¹ The CLE focus is therefore directed to non-legal agencies and youth workers who can be trained to help overcome these barriers.²² The PLE site is a course which operates in the form of a Legal Advice Clinic as part of the ACT Legal Aid Office's 'advice and minor assistance' activities. The LAC Program is intended to expose students to social justice issues through direct contact with disadvantaged clients and to provide students with "hands on" legal experience, principally through interviewing and interview follow-up, in the period just before they are admitted as practitioners.

The authors maintain that lessons from the research on measuring quality legal services and outcomes can be adapted to enable clinical and PLE students in these settings to provide an enhanced experience of the law in practice.²³ These two

²¹ Christine Coumarelos et al, 'Legal Australia-Wide Survey: Legal Need in Australia' (Report, Law and Justice Foundation of New South Wales, (August 2012) <<http://www.lawfoundation.net.au/ljf/app/6DDF12F188975AC9CA257A910006089D.html>> and M Schwarz, F Allison and C Cunneen, 'A Report of the Australian Indigenous Legal Needs Project', Cairns, James Cook University (2013) <http://www.jcu.edu.au/ilnp/public/groups/everyone/documents/technical_report/jcu_131180.pdf> accessed 17 January 2014 and M Schwarz, F Allison and C Cunneen 'The Civil and Family Law Needs of Indigenous People in Victoria', Cairns, James Cook University (2013).

²² Buck and L Curran, 'Delivery of Advice to Marginalised and Vulnerable People: the Need for Innovative Approaches', *Public Space: The Journal of Law and Social Justice* vol. 3, Art. 7 (2009), 1-29.

²³ See also J Leiper, 'Transnationalising Legal Education: Nurturing Commitment in the Legal profession: Student Experiences with the Osgoode Public Interest Requirement' 2009 Vol 10 No 7, *German Law Review*,

groups of programs – clinical and PLE – are substantially different in nature and aims. Clinical programs are designed to provide opportunities for law students to critically examine the operation of the law “on the ground”. Practical legal education placement programs are designed to provide opportunities to acquire practice-ready skills. As such what is being assessed in terms of student performance is likely to be substantially different in each program, but nevertheless measures of quality as regards the delivery of client services remain important for both. The balance of this paper will explore how this might be done.

This article focuses only on those elements of Curran’s research that are specifically relevant to the experiential learning of students either in a clinical context, placement context or simulated client practical legal training scenario. Assessment processes now usually rely only on students’ own perceptions as to how effective an interview seemed to them or how useful and practical they felt a legal education or street law session had been. More independent approaches than self-critiquing are usually confined to peer or supervisor observation with little use of client feedback. But we consider feedback from clients involved in the interviewing or CLE session fits well within the scope of exemplars of best clinical practice such as Stuckey and colleagues’ ‘road map’.²⁴ This notes the importance of balancing student autonomy with client protection.²⁵ We accept their strong stress on the role of supervision and

1087 – 1094, 1094 which examines the relationship of students in watching lawyers and come students exposure to the difficulties of facing real life circumstances of legal practice.

²⁴ R Stuckey and others, ‘Best Practices for Legal Education’, Clinical Legal Education Association, 2007.

²⁵ Above note 24, 195.

teaching in practice environments that never loses sight of ‘the requirement that no client be subjected to incompetent representation’.²⁶ As a further protection clinical and PLE students are subject to Legal Aid ACT’s Practice Standards. Students are required to adhere to these standards. The culture instilled is around their responsibility as lawyers and the need to adhere to standard in order to ensure accurate and relevant advice to real clients.

1. Using the first measure of quality – Fostering Students in the Conduct of a ‘Good Client Interview’

A good client interview

Work undertaken in Scotland²⁷ highlights the importance of focusing students on the critical nature of their role as lawyers in client interviews and the importance of their interaction with clients. The concern of the authors is that monitoring progress in this area should not simply be left to student’s perceptions. Self-reflection though important is not sufficient.

Some external method of gaining feedback on how effective the interaction has been from the client’s point of view can add an important perspective. We suggest a protocol of brief questioning of clients post-interview as to their level of satisfaction with the interaction. In some clinics and PLE settings a supervisor may also sit in on an interview and be in a position to provide post-interview feedback.

²⁶ Above note 24,195.

²⁷ K Barton, D Clark Cunningham, G T Jones and P Maharg, Valuing What Clients Think: Standardised Clients and the Assessment of Communicative Competence, 13 Clinical L Rev 1 (Fall, 2006), 33-50.

In Curran's research on behalf of Legal Aid ACT broad methods of obtaining feedback were utilised, including focus groups and stakeholder interviews, interviews with legal aid staff, interviews with clients and others involved in criminal, family or civil disputes. Participants were asked to define outcomes that were both "positive" and "within your control to achieve". The results suggest that a positive outcome was seen more in terms of the processes that the lawyer, staff and client go through rather than simply focusing on the advice given or the end result of a case.

The data revealed certain "positive" outcomes seen as critical; most importantly for our purposes these include an effective client interview. In practice terms, an initial interview can impact on later follow-up interviews or contacts, rapport, trust, confidence, as well as the conduct of any litigation or negotiations that may follow. We suggest clinical and PLE students ought to be taught and assessed on the conduct of an effective interview given so much turns on it in legal practice. For clinical students, the primary importance is the insights examining this interaction can provide in terms of seeing the law in action. For PLE students, its value is more pressing in terms of preparing them as effective entry level lawyers.

Another "positive" aspect in terms of a good outcome identified in the Curran research is the importance that clients placed on the level of non-legal support they were provided with. For clients with a mental illness, with drug or alcohol addiction, who are homeless or live chaotic lives, practical support in terms of personal management was seen as critical. For such clients, a positive outcome might well be

that they attend their Legal Aid appointment or advises legal aid staff of a new mobile phone number or address. This support work is seen as critical and highlights the multifarious roles a lawyer needs to take in order to deliver legal advice. Evans and colleagues argue that the skills training provided to clinical students should incorporate a client focussed approach which would include inculcating such an awareness of the subjective circumstances of clients and the specific access to justice barriers (e.g. cultural barriers and communication strategies) they face.²⁸

We agree that students in clinical and PLE programs need to be taught such a client focussed approach to practice.

Assessing a Good Client Interview

If as the Curran research suggests, a legal interview is pivotal in providing quality legal service and leading to a successful outcome then, how might the measuring of a quality legal interview translate when students are delivering legal assistance under supervision? There is a well-developed literature on the elements that constitute an effective legal interview. Wolski, Field and Bahrij²⁹ examine the nature and processes of participatory, client-focussed interviewing and Chay and Smith³⁰ further unpack the staged process for a good interview. Wolski and colleagues

²⁸ Above note 2, 15.

²⁹ B Wolski, D Field and J Bahrij 'Legal Skills: A Practical Guide for Students', (Thompson and Legal Regulatory, 2006) Chapter 2 59- 116.

³⁰ A Chay and J Smith, 'Legal Interviewing in Practice', (Law Book Co. , North Ryde, 1996).

underline the importance of a shared understanding of roles and responsibilities, managing expectations, providing clear communication, focusing on problem solving, maintaining ethical values and responsibilities and dealing sympathetically with clients' needs, especially those with special needs. They discuss the underlining need for co-operation and trust between lawyer and client, for real client participation, for the lawyer to probe deeply but respectfully, so as to reassure clients that they are heard and understood and to obtain accurate instructions and provide accurate advice.

Similarly, there is empirical research as to the presence of such qualities in the client interviews conducted by practising lawyers. Moorhead and Robinson³¹ conducted interviews with lawyers and clients after an initial consultation. Follow-up interviews were then conducted six months later as the lawyer-client relationship developed. In the worst cases they found that, even after six months, the lawyer had still not identified the issue for which the clients said they were seeking assistance. The study remarked on lawyers' poor listening skills, their lack of fact checking and their lack of understanding regarding client needs. Kreiger has highlighted in his own empirical work the potential of clinic to make students 'more adept at exploring client interests and determining next steps to take in a case' and in imparting the ability to identify legal rules applicable to a problem.³²

³¹ R Moorhead, M Robinson and Matrix Research and Consultancy, *A Trouble Shared: Legal Problems Clusters in Solicitors' and Advice Agencies* (London: Department of Constitutional Affairs, 2006).

³² S H Kreiger, 'The Effect of Clinical Legal Education on Law Students: An Empirical Study, 2008 Vol 35:1, *William Mitchell Law Review*, 359-400 at 397.

This research provides the groundwork for the specific skills relevant to the conduct of a good client interview. Curran's work sought to develop a set of indicators as to whether a good legal interview has occurred. These are now being used with adaptations to suit Consumer Action Law Centre in the evaluation of its Advice Line and in an evaluation of a Medico-Legal Alliance in the rural Bendigo region of Victoria, in south eastern Australia. It is suggested that the indicators can also be utilised in assessing students in clinical and PLE programs. A short form interview of clinical clients post-interview might include the following set of questions:

- *Did the interviewing student lawyer listen as you explained your situation?*
- *Did the student lawyer make you feel safe, comfortable and respected during the interview?*
- *Did the student lawyer ask questions that extracted all you think they needed to know and did they check with you to see they had understood what you told them?*
- *Did the student lawyer give you an opportunity to ask questions or clarify all you wanted to know?*
- *Did the student lawyer give you an opportunity to ask questions or clarify all you wanted to know?*
- *Did the student lawyer explain how the law affects your problem, the various options open to you, and what might happen next in a way that you could understand?*
- *Do you feel:*
 - a. you understand what to do next?*
 - b. you understand what steps you need to take?*
 - c. you understand what steps the lawyer will/will not take and why?*
 - d. you understand all the options open to you?*
- *Would you feel comfortable seeking help from this lawyer again if required?*³³

³³ These questions have been adapted to suit a clinical/PLE context but are based on questions from Curran, above note 13.

Many of the questions intersect with those used by Barton and colleagues³⁴ as a basis for constructive feedback to students on the effectiveness of their simulated interviewing in PLE programs.

Case Study of client interviewing: The Legal Advice Clinic- PLE students

The Legal Aid Clinic Program (LAC) provides one option for students to satisfy the legal placement experience requirements of their PLE study. LAC is conducted at the ACT Legal Aid Office in Canberra and the program is integrated into Legal Aid's "advice and minor assistance" activities. The LAC Program is intended to expose students to social justice issues through direct contact with Legal Aid clients and to provide students with "hands on" legal experience, principally through interviewing and interview follow-up, just before they are admitted as practitioners. LAC is a clinical program running since 1996 and has been the subject of earlier research as an example of the delivery of minor assistance follow up work.³⁵

Client interviews follow a standard methodology designed to expose students to live client contact whilst recognising that they are unlikely to have relevant legal content knowledge and are not permitted to give legal advice. Each student meets the client and conducts a "pre-interview" where their task essentially is to determine the

³⁴ Above note 27, 33-50.

³⁵ Harrison, J, Holmes, V, Rowe, M, Foley, T, Sutherland, P 'Capacity of a Clinical Program to provide 'Minor Assistance' within the Structure of a Legal Aid Commission, paper presented to the 3rd *International Journal of Clinical Legal Education*/8th Aust. Clinical Legal Education Conference, Melbourne, 13-15 July 2005

nature of the legal problem presented by the client. The pre-interview is primarily intended to allow the student to test their interview skills in a totally open, live client situation. The solicitor/instructor then enters the interview room, is briefed by the student as to the client's 'legal problem' in the client's presence and then continues the interview (which may or may not include legal advice) in the presence of the student. The student may be called upon in the interview to comment or assist and will be required to undertake, under supervision, any follow-up work from the interview. The student prepares a file note of the interview for Legal Aid records. Feedback to students on their performance is an important part of the LAC Program and it may be that this provides supervisors with an opportunity to incorporate some of the questions suggested above into their feedback to students. Additionally, there is scope to select appropriate questions from those suggested above to ask the client upon exiting the interview. This would provide additional feedback for the student as to whether the client saw the interview as effective.

Student evaluation reports over the life of the LAC Program identify interviewing exposure as one of its most valuable learning experience (typical comments in 2013 course evaluations include 'a great experience in making chronological notes, interviewing clients, watching supervisors give advice', 'very valuable experience interviewing clients, never had this experience in law school' and 'it was great to interact with the clients on a one-on-one basis. It was helpful to learn from the supervising lawyer what issues to focus on & how to focus on those issues.').

Assessment regime

Students' effectiveness in participating in both pre-interviews and the advice interview conducted by the lawyer/instructor could be assessed against a set of 'indicators of good practice'³⁶ which take into account feedback received from the client in their post-interview survey responses:

Pre-interviews		
1. <i>Collected information required for the Advice Sheet</i> (e.g. clearly & succinctly explained need; collected without unsettling client / disturbing flow; exercised judgement)	Self assess	Supervisor assess
2. <i>Efficiently undertook pre-interviews</i> (e.g. maintained role / observed boundaries; rapport; structure; identification of issues & needs; open & closed questions; identified relevant questions to ask and information to receive; summarising back; notes: legible, structured, relevant)		
3. <i>Debriefed after pre-interview</i> with other student or solicitor (insight about strengths / weaknesses; analysing knowledge / skills; ideas for improvement)		
Interviews		
4. <i>Effectively briefed solicitor</i> (pace; clarity; structure; coverage; relevance; maintained client rapport & managed client)		
5. <i>Attempt to apply initiative in interviews</i> (e.g. teamwork; explaining to client; client questions/ issues addressed; client options explored; problem solving; assistance as complete / empowering for the client as possible in the circumstances)		
6. <i>Notes finalised</i> (interview notes include facts; advice given; action steps listed at end; notes checked / approved by solicitor)		
7. <i>Initiated / participated in efficient post interview discussion</i> (e.g. sought & gave feedback; put forward any concerns; debriefed where appropriate)		

In addition students could be required to submit a short (250 words) reflection on how well a chosen interview went addressing this assessment regime and recording any feedback from clients. This could be done as part of an existing reflective journal or part of a case study component of the course.

³⁶ These 'indicators of good practice' are adapted from the learning outcomes devised and implemented by our colleague Judy Harrison in the Clinical Youth Law Program course over many years.

2. Using the second measure of quality – Fostering Students in the Conduct of a ‘Effective Community Legal Education session’

Effective Community Legal Education

Community legal education (CLE) is seen as ‘the provision of information and education to members of the community, on an individual or group basis, concerning the law and legal processes, and the place of these in the structure of society. The community may be defined geographically or by issue’.³⁷ Our view is that community legal education is critical in a ‘participatory democracy’. If people are to participate effectively in a democracy they need to have a fundamental understanding of how legislation passed by parliaments and administered by government departments affects their lives. Clinical students often engage in the provision of community legal education by delivering training or information sessions to sections of the community. But assessment of the quality of their involvement is mostly subjective and unstructured. In research examining CLE³⁸ Curran critiqued lecture style approaches since feedback from participants revealed this was ineffective. Approaches that instead respond to the specific needs and experiences of the target audience were seen as much more effective. Such approaches have also been identified as effective in adult learning.³⁹

³⁷ National Association of Community Legal Centres, Guidelines for the Management of Community Legal Education adopted by the National, CLEWS Network in October 2009.

(http://www.naclc.org.au/cb_pages/files/13%20National%20CLE%20Guidelines%20%28Oct%202009%29%282%29.pdf)

³⁸ Above note 13, 1-2. The report including the research methodology, survey data (separately and full version also on the web site) and findings are on LAACT’s website for agencies to examine and adapt.

³⁹ C Egle, ‘A Guide to Facilitating Adult Learning’ Rural Health Education Foundation and Department of Health and Aging, 2009, http://www.rhef.com.au/wp-content/uploads/a_guide_to_facilitating_adult_learning.pdf

Additionally, for people experiencing disadvantage (who are the main clients of legal aid and community legal centres in Australia), who are socially excluded or who are vulnerable for reasons (which include age or capacity) it becomes even more critical that they are able to understand what is being presented to them about the law so as to be able to protect or enforce their rights. Curran's research highlighted this, noting that CLE needs to be an effective endeavour to share knowledge that can be practically applied and effectively absorbed and implemented. Balmer and colleagues note 'the findings from the English and Welsh Civil and Social Justice Survey demonstrate that there are knowledge, skills and confidence gaps in the population which are barriers to achieving legal capability'.⁴⁰ Their findings highlight the importance of helping people to make sense of the law. Their analysis also demonstrated that disadvantaged groups were most likely to not obtain advice, to lack knowledge of rights, and so suffer adverse consequences. Respondents reporting problems with discrimination, clinical negligence, welfare benefit problems and homelessness were less likely to obtain advice, and as a consequence more likely to lack knowledge of rights and to suffer adverse outcomes. Their Report notes that those designing public legal education interventions need to take into account the 'whole' person as well as other contextual factors, such as

⁴⁰ N Balmer, A Buck, A Patel, C Denvir and P Pleasence 'Knowledge Capacity and the Experience of Rights Problems, Public Legal Education Network and Legal Services Research Centre (London, 2010). <http://www.lawforlife.org.uk/data/files/knowledge-capability-and-the-experience-of-rights-problems-lsrc-may-2010-255.pdf>

literacy and numeracy levels, and anxiety and self-esteem considerations. The timing of the education is also crucial with people are more likely to be receptive to just-in-time education.⁴¹ For students conducting community legal education it is therefore essential that it be highlighted that their role is to communicate effectively and appreciate the needs and capacities of the group.

Assessing Effective Community Legal Education

Drawing on the indicators of effective CLE developed in Curran's research we suggest a number of measures that may be effective for assessing community education provided by clinical students. We suggest surveying participants either orally (especially for participants with low literacy or poor written skills) or with a short written survey administered at the end of the session. Again a short form interview of CLE participants might include the participants responding to statements (in terms of 'strongly agree, agree, disagree and strongly disagree') such as:

- *The legal education session was clear and easy to understand*
- *The legal education session was practical and appropriate so as to assist my understanding of the topic.*

⁴¹ Former Lord Justice of Appeal, Chair, the Plenet Steering Group, April 2010, 'Knowledge Capacity and the Experience of Rights Problems, cited in N Balmer, A Buck, A Patel, C Denvir and P Pleasence ' Public Legal Education Network and Legal Services Research Centre', London, 2010, 3.

< <http://www.lawforlife.org.uk/data/files/knowledge-capability-and-the-experience-of-rights-problems-lsrc-may-2010-255.pdf>>

- *The legal education used practical scenarios and case studies which assisted me in gaining a picture of how the law works and the different contexts.*
- *The session met my expectations.*
- *The information was relevant, useful and helpful.*
- *As a result of this session/s I am more informed about how the law operates in this area and how I fit in.*
- *There were elements of the presentation that need improvement.*
- *Armed with the information from this session, I feel more confident to take steps involving my legal rights.⁴²*

Participant feedback from such surveys can assist students in reflecting on how well the information they impart is received and encourage their continuing reflection and development as to how adept they are at communicating legal concepts to a non-legal audience. Supervisor observation using the statements can also provide a useful feedback tool. It might be useful for students to aggregate the data from surveys for presentation to their supervisor. This would engage students in a process whereby they appreciate the tenor of responses and any recurrent themes that emerge. The students could usefully summarise the findings and present them in a debrief session with fellow students.

⁴² These questions have been adapted to suit a community education context but are based on questions from Curran, above note 13 and from further work undertaken by Curran for the Consumer Action Law Centre in late 2013 and the Advocacy and Rights Centre, January 2014.

Case Study of community legal education: The Clinical Youth Law Program- clinical students

Youth Law Centre ACT (YLC) is a free legal service for young people between 12-25 years of age. It is provided through collaboration between the ACT Legal Aid and the ANU College of Law. A drop-in centre operates each weekday providing legal advice and referral service for young people. Clinical students work in the YLC one day a week in a paralegal role. As part of their involvement students conduct pre-interviews, brief solicitors, assist during interviews and complete follow up work on client files. The centre also undertakes extensive CLE, running outreach programs on a regular basis at high schools, colleges and with youth organisations. These are interactive programs designed to promote young people's knowledge of their legal rights and responsibilities and raises awareness of the services the YLC offers.⁴³ There is a weekly reflective and instruction session each Thursday morning.

The clinic identifies target groups for CLE as 'primary' (young people 12-25) and 'secondary' (e.g. youth workers, teachers, agencies). The students participate in CLE activities that occur by way of invitation (e.g. to schools, youth groups) for interactive sessions about the legal aspects of particular activities (like rave parties, sexting) or through requests from particular groups (young people from North Africa, young people on remand) to provide tailored sessions. They are also

⁴³ Recent sessions have discussed drug and alcohol; police powers and security guards; employment and apprenticeship; internet and mobile phone use including cyber-bullying and sexting; car accidents, and buying and selling goods (mobile phones etc.).

proactive in making overtures to youth agencies to have law students come and deliver sessions to workers about how to identify legal aspects of young people's problems and how and where to refer them to for assistance. All of this occurs under supervision of a staff lawyer or the course coordinator.

Student involvement in the CLE program takes a number of forms:

1. Students are closely involved in the preparation and revision of materials for outreach activities including tailoring materials and resources – as part of both onsite activities and as assessment items (current popular subjects include group housing, sexting, police and security personnel powers)
2. Students provide primary contact with young people in the delivery of CLE to school groups, youth groups, youth detention centre open day, youth expos, visits to drop in centres, and secondary contact through youth agencies, visits to youth worker agencies, school teachers and drop in centre workers.
3. Students debriefing in feedback session with the course coordinator, YLC staff and fellow clinical students about the response and effectiveness of CLE sessions as a learning process, specifically in terms of empowerment and engagement using a simple template questioning rubric of 'What worked? What could be done better? How could you be better prepared/equipped? What feedback did you get?'

Student evaluation reports once again are highly positive as to the benefits of involvement in CLE outreach activities.

Assessment regime

Students' effectiveness in participating in CLE can similarly be assessed against a set of 'indicators of good practice'⁴⁴ which take into account feedback received from participants in those sessions:

Community Legal Education		
1. <i>Preparing community legal education materials</i> (assist solicitor & others in preparing/revising materials including researching, drafting handouts, brochures etc)	Self assess	Supervisor assess
2. <i>Presenting community legal education sessions</i> (including level of engagement, using appropriate language [register, tone]; generating rapport; responding to group dynamics; fielding questions)		
3. <i>Problem solving</i> –identifying brief, determining level of content, appropriate presentation format; teamwork)		
4. <i>Quality of work</i> (timeliness; accuracy; performance against expectations including p, clarity of materials and in presentation style)		
5. <i>Initiated / participated in session discussion</i> (obtained client feedback; debriefed where appropriate)		

Effective debriefing is important. Careful debriefs about feedback received and how they felt about the sessions can provide fertile opportunities for deepened discussion on why skill, good human interaction and care are intrinsic to good lawyering. In a similar way, as with client interviewing, students could also be required to submit a short (250 words) reflective piece on how well their CLE involvement went and

⁴⁴ Again we are indebted to our colleague Judy Harrison for these 'indicators of good practice' adapted from her the Clinical Youth Law Program course learning outcomes.

recording any feedback from participants. This too could be done as part of an existing reflective journal or part of a case study component of the course.

CONCLUSION

The experiential learning opportunities in clinic or PLE placements are immense. Finding new ways to ensure students reflect on the quality of their participation can help them development professionally. By broadening the feedback students receive, in their learning, to those whom they seek to advise/instruct can enable them to appreciate that the work that they do as student lawyers directly affects clients and the community.

Conducting an interview and participating in an education session are very different activities but both highlight twin professional responsibilities – addressing the need for legal information and advice within a warm human exchange. Students participating in interviews (both directly in pre-interviews and collaboratively with a lawyer) are directly engaged in meeting and addressing human problems with legal aspects. Students involved in the empowering potential of CLE meet a crucial role in the administration of justice.

Students can, we argue, in a safe and guided context, emerge more mindful of the need to strive to deliver quality service, and reflect on what they do and how well it is received. Even though they are novices, notions of quality highlight their understanding of the effectiveness of law in operation. We suggest that careful

debriefs with students about this feedback can provide fertile opportunities for deepened discussion on the law and lawyers.

The two measures we have sought to extrapolate from the sphere of legal assistance service evaluation provide fertile methods that might be considered and adapted to clinical or PLE programs both in terms of assessment and program design. By connecting students early to notions of quality and effectiveness, may also have the benefit of driving up the quality of legal practice in the longer term.